

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DANIEL RYAN CURRY,

Plaintiff,

v.

REED TREFZ and DAVID GARDNER,

Defendants.

ORDER

11-cv-223-slc

In an order entered on October 21, 2011, plaintiff Daniel Curry was granted leave to proceed in this action against defendants Reed Trefz and David Gardner. On November 30, 2011, defendants filed an answer to plaintiff's complaint, raising various affirmative defenses. Plaintiff has filed a response to the answer and affirmative defenses, in which he replies to several factual statements made in the answer and argues that some of the affirmative defenses are not valid.

Plaintiff does not need to be concerned: although defendants have raised certain affirmative defenses in their answer, defendants have not actually filed a motion to dismiss. Therefore, plaintiff does not need to reply to the answer. If defendants ever file an actual motion to dismiss, then plaintiff will be allowed to respond to that motion. In the meantime, Rules 7(a) and 8(b)(6) of the Federal Rules of Civil Procedure work together to protect plaintiff from defendants' claims in their answer. Because of those rules, the court automatically assumes that plaintiff has denied the factual statements and affirmative defenses raised in the answer.

ORDER

IT IS ORDERED that plaintiff's reply to the answer, dkt 36, will be placed in the court's file but will not be considered.

Entered this 6th day of December, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge